

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/477,099	DUNLAP ET AL.	

  

<b>Examiner</b>	<b>Art Unit</b>	
Jacob F. Betit	2164	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 13 July 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within ONE MONTH or THIRTY DAYS from the mailing date of this Notification, whichever is longer. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1.  The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2.  The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3.  At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4.  (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5.  The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6.  The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7.  The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8.  The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9.  The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10.  Other (including any explanation in support of the above items):

See Continuation Sheet.



**SAM RIMELL**  
PRIMARY EXAMINER

Continuation of 10. Other (including any explanation in support of the above items):

The claims on appeal are dependent claims 10 and 20. The description of the claims on appeal should also refer to the independent claims on which these claims depend to avoid confusion (i.e. "There are (2) claims on appeal, claim 10 which depends from independent claim 1, and claim 20 which depends from independent claim 11.

The Status of the Amendments section should include a concise statement indicating the status of the claims, as the applicant understands them. Petitions made to the director cannot be appealed to the board and reference to them should not be included in the brief. Because the examiner indicated in the original Advisory Action and in the supplemental Advisory Action, disclosed herewith, that the amendment after final shall not be entered; the status of the amendment should indicate "Amendment After Final not approved for entry".

The Summary of the Invention section should "set forth the structure, material or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters" (see 37 C.F.R. § 41.37(c)(1)(v)). The summary given in the current brief does give page, line, figure, and reference numbers, but does not have them corresponding to each claimed function as required.

The Appendix of Claims Involved in Appeal section improperly lists all of the claims of the application. The applicant is only appealing claims 10 and 20, therefore only claims 10 and 20 and any claims on which they depend should be listed in the appendix. Claims 2-9 and 12-19 should be removed from the appendix.